

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES ERNEST EASTERLY)
)
 v.) NO. 3:05-0284
)
VOUGHT AIRCRAFT INDUSTRIES,)
INC., et al.)

TO: Honorable Todd J. Campbell, Chief District Judge

REPORT AND RECOMMENDATION

By order entered April 13, 2005 (Docket Entry No. 2), this civil action was referred to the Magistrate Judge, pursuant to 28 U.S.C. § 636 and Rule 72 of the Federal Rules of Civil Procedure, for entry of a scheduling order and for pretrial proceedings.

The pro se plaintiff filed this action on April 7, 2005, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, claiming employment discrimination. The record does not show that process has been served on any of the five defendants named in this action by the plaintiff, and no response to the complaint has been filed by any defendant.¹

Accordingly, the Court recommends that this action be dismissed. There is nothing which indicates that the defendants have been served with process within 120 days of the date this action was filed as required by Rule 4(m) of the Federal Rules of Civil Procedure. Rule 4(m) provides that,

¹ The Clerk noted that summons were provided to the plaintiff when he filed this lawsuit, but were not issued at that time.

in the absence of a showing of good cause by the plaintiff for why service has not been timely made, the Court "shall dismiss" the action without prejudice.

R E C O M M E N D A T I O N

Accordingly, the Court respectfully RECOMMENDS that this action be DISMISSED without prejudice as set out above.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of receipt of this notice and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,



JULIET GRIFFIN
United States Magistrate Judge